

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BERRY B. MILLER,)	
Plaintiff,)	
)	No. 1:13-cv-999
-v-)	
)	HONORABLE PAUL L. MALONEY
ALAMO TOWNSHIP POLICE DEPARTMENT,)	
Defendant.)	
_____)	

ORDER ADOPTING REPORT AND RECOMMENDATION
and
ORDER DISMISSING LAWSUIT

Plaintiff Barry Miller, acting pro se and proceeding in forma pauperis, filed a complaint against the Alamo Township Police Department. The two-page, handwritten complaint generally alleges a claim for false arrest that occurred in November 1997. The magistrate judge issued a report recommending the complaint be dismissed because the sole claim is barred by the statute of limitations. (ECF No. 4.) No objections have been filed.¹ After being served with a Report and Recommendation issued by a Magistrate Judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in

¹ Copies of the report and recommendation were mailed to Plaintiff at the address disclosed in the financial affidavit. (ECF Nos. 5 and 6.) Both copies have been returned to the Clerk's office as undeliverable and unable to forward. Even though Plaintiff has not received a copy of the Report and Recommendation, he has been properly served under the Federal Rules of Civil Procedure. As required by statute, the magistrate judge filed the Report and Recommendation with the Court and mailed a copy to Plaintiff at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) ("the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties."). Upon placing the Report and Recommendation in the mail to Plaintiff's last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Plaintiff has a continuing obligation to apprise the Court of his current address. *See* W.D. Mich. L.Civ.R. 41.1.

a waiver of the issue and the issue cannot be appealed. *Id.*; see *Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit's practice).

Because no objections have been filed, the report and recommendation is **ADOPTED** as the opinion of this Court. The false arrest claim is **DISMISSED** with prejudice because it is barred by the statute of limitations. **IT IS SO ORDERED.**

Date: October 16, 2013

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge